

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

STEVEN L. ROMANSKY,	:	
	:	
Petitioner	:	CIVIL NO. 3:CV-00-1520
	:	
v.	:	(Judge Rambo)
	:	
CONNER BLAINE, JR.,	:	
	:	
Respondent	:	

O R D E R

Before the court is the mandate of the United States Court of Appeals for the Third Circuit remanding the above captioned action “without prejudice to Petitioner’s filing a motion to amend the habeas petition to allow additional claims based upon the audiotape evidence.”¹ (Doc. 31.) Petitioner has filed an amended petition, (doc. 44) and supporting brief (doc. 45), raising the issues of (1) whether petitioner was denied his Fifth, Sixth and Fourteenth Amendment rights when the Commonwealth violated the statutory provisions of Title 18 Pa.Cons. Stat. Ann. § 5704(2)(ii); (2) whether Petitioner was denied his Fifth, Sixth and Fourteenth Amendment rights under *Massiah v. United States*, 377 U.S. 201 (1964) and its progeny when the Commonwealth surreptitiously recorded trial strategy via radio transmitter placed on

¹The audiotape evidence refers to four audiotapes recordings made by Thomas Smithers, who agreed to engage Romansky in conversations concerning his criminal activity.

co-defendant after the right to counsel had attached; and (3) whether Petitioner was denied his Fifth, Sixth and Fourteenth Amendment rights under *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny when the Commonwealth failed to provide him with the surreptitious recordings and exculpatory evidence contained within (*id.*). Respondent has filed an answer that only addresses Petitioner's third issue (*see* doc. 52, p. 3).

IT IS THEREFORE ORDERED THAT:

1. Respondent shall file a supplemental answer addressing issues one and two (Doc. 45), within twenty (20) days of the date of this Order. *See* R. GOVERNING § 2254 CASES R. 5(b)-(d) (requiring that answer state whether petition is barred by a failure to exhaust state remedies, a procedural bar, non-retroactivity, or a statute of limitations, and include relevant state court transcripts and briefs).
2. Petitioner shall file a traverse within fifteen (15) days of service of Respondent's supplemental answer.

s/Sylvia H. Rambo
Sylvia H. Rambo
United States District Judge

Dated: September 26, 2007.